

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOVANNY ACUNA-MARTINEZ,

Plaintiff,

v.

MASON, et al.,

Defendants.

Case No. 2:23-cv-01390-ART-MDC

ORDER DISMISSING
AND CLOSING CASE

Plaintiff Jovanny Acuna-Martinez brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he allegedly suffered while incarcerated. (ECF No. 18). Because Plaintiff is no longer incarcerated, this Court ordered Plaintiff to either pay the full \$405 filing fee or file a complete application to proceed *in forma pauperis* for non-inmates by March 12, 2025, to proceed with this case. (ECF No. 23 at 7-8). That deadline expired without any response from Plaintiff.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less

1 drastic alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d
2 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

3 The first two factors, the public's interest in expeditiously resolving this
4 litigation and the Court's interest in managing its docket, weigh in favor of
5 dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants,
6 also weighs in favor of dismissal because a presumption of injury arises from the
7 occurrence of unreasonable delay in filing a pleading ordered by the court or
8 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
9 1976). The fourth factor—the public policy favoring disposition of cases on their
10 merits—is greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic
12 alternatives can be used to correct the party's failure that brought about the
13 Court's need to consider dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983,
14 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*
15 the party has disobeyed a court order does not satisfy this factor); accord
16 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not
17 exhaust every sanction short of dismissal before finally dismissing a case, but
18 must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
19 F.2d 1421, 1424 (9th Cir. 1986). Because this Court cannot operate without
20 collecting reasonable fees, and litigation cannot progress without Plaintiff's
21 compliance with the Court's orders, the only alternative is to enter a second order
22 setting another deadline. But repeating an ignored order often only delays the
23 inevitable and further squanders the Court's finite resources. The circumstances
24 here do not indicate that this case will be an exception. Setting another deadline
25 is not a meaningful alternative given these circumstances. So the fifth factor
26 favors dismissal.

1 **II. CONCLUSION**

2 Having thoroughly considered these dismissal factors, the Court finds that
3 they weigh in favor of dismissal. It is therefore ordered that this action is
4 dismissed without prejudice based on Plaintiff's failure to address the matter of
5 the filing fee in compliance with the Court's order. The Clerk of Court is directed
6 to enter judgment accordingly and close this case. No other documents may be
7 filed in this now-closed case. If Plaintiff wishes to pursue his claims, he must file
8 a complaint in a new case and address the matter of the filing fee.

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10 DATED: March 28, 2025.

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15 ANNE R. TRAUM
16 UNITED STATES DISTRICT JUDGE
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